

AMENDED IN SENATE AUGUST 14, 2002

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CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## ASSEMBLY BILL

**No. 1068**

**Introduced by Assembly Member Wright  
(Coauthor: Assembly Member Nation)**

February 23, 2001

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An act to amend Sections 1785.16.2, 1785.20.3, 1786.16, 1786.24, 1786.29, ~~1786.53, and 1798.85~~ and 1786.53 of, and to add Sections 1786.40 and ~~1786.55~~, 1786.55, and 1786.60 to, the Civil Code, relating to personal information, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1068, as amended, Wright. Personal information.

(1) The Consumer Credit Reporting Agencies Act regulates consumer credit reporting agencies and the manner in which these agencies assemble and evaluate consumer credit information, as specified. Existing law prohibits the sale of a consumer debt if the file of the consumer is blocked, as specified, or if the consumer provides in writing that the debt is not his or her obligation due to identity theft.

Existing law exempts from those prohibitions the sale of a debt to a subsidiary or affiliate of the creditor.

This bill would revise and recast those provisions, and define the term “debt collector.” The bill would additionally require, for continual exemption from those prohibitions, that a subsidiary or affiliate not take any action to collect on the debt.

(2) Existing law establishes a process by which any person who uses a consumer credit report in connection with a credit transaction is required to verify the address of the consumer, confirm that the transaction is not the result of identity theft, and verify the identity of the consumer, under specified circumstances.

This bill would delete those provisions and establish a different process by which any person who uses a consumer credit report in connection with the approval of credit based on an application for an extension of credit is required to make verifications and confirmations, under specified circumstances. The bill would require a creditor to provide written notice to a victim of identity theft of his or her rights, pursuant to specified provisions. The bill would exempt certain entities, as specified, from certain notice requirements. The bill would also exclude from these provisions a United States Army or Air Force post office address or a United States Fleet post office address.

(3) Existing law requires that a person that procures or causes to be prepared an investigative consumer report in connection with the underwriting of insurance or for employment purposes other than suspicion of wrongdoing meet specified conditions, including, but not limited to, the name and address of the agency conducting the investigation, the nature and scope of the investigation, and information on consumer inspection.

This bill would impose further requirements on the recipient of an investigative consumer report, as specified, unless the report is procured or caused to be prepared by an employer for employment purposes due to suspicion of wrongdoing or misconduct.

(4) *Existing law establishes a process by which a consumer may dispute the accuracy of information in a consumer credit report. Existing law requires an investigative consumer reporting agency to make reinvestigations, as specified, and, if information is deleted or modified, to notify the appropriate source from which the disputed information was obtained and the consumer.*

*This bill would provide that notification to the consumer need not provide the identity of the source of the disputed information.*



(5) Existing law requires an investigative consumer reporting agency to attach notices as cover sheets to any report, in at least 16-point type, setting forth disclosures and warnings, as specified, and to send a copy to the subject of the report.

This bill would require those notices to be placed on the first page of an investigative consumer report in 12-point boldface type, including a notice providing that information generated as a result of identity theft, including evidence of criminal activity, may be inaccurately associated with the subject of the report. The bill would also delete the copy requirement.

~~(5)~~

(6) Existing law permits an investigative consumer reporting agency to prepare an investigative consumer report for various purposes and entities.

This bill would provide that if an investigative consumer report results in the denial of a specified insurance policy or the increase of the hiring of a dwelling unit, the user of the report is to notify the consumer of that adverse action and the name and address of the agency that made the report.

~~(6)~~

(7) Existing law provides that any person that collects consumer information, without the services of an investigative consumer reporting agency, provide that information to the consumer, as specified.

This bill would instead require that any person that collects or receives consumer information for employment purposes that constitute matters of public record, as defined, to provide that information on no more than one occasion to the consumer in a specified form. The bill would require that any person prior to taking adverse action in response to that information give the consumer a copy of the public record. The bill would also require that person to provide specified information on any job application form, or any other written form, to permit a consumer to waive his or her right to receive that information, except as specified.

~~(7)~~

(8) Existing law requires an employer to make employee personnel records available for review, with specified exceptions, and permits an employer or employment agency to obtain employee information without the use of an investigative consumer reporting agency. Existing



law generally provides that attorney-client communications and attorney work product are privileged, with exceptions.

This bill would declare that these provisions are unaffected by the bill.

~~(8)~~

(9) Existing law prohibits any person or entity, not including a state or local agency, as of July 1, 2002, from using an individual's social security number in certain ways, including posting it publicly or requiring it for access to products or services.

This bill would exempt any financial institution from that prohibition until July 1, 2003, for specified purposes.

~~(9)~~

(10) This bill would provide that the requirement that a creditor is to provide written notice to a consumer identified as a victim of identity theft of his or her rights is to become operative 90 days after the effective date of this measure.

~~(10) This bill would declare that it is intended to clarify the law in relation to the users of consumer credit reports.~~

(11) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1785.16.2 of the Civil Code is amended  
2 to read:

3 1785.16.2. (a) No creditor may sell a consumer debt to a debt  
4 collector, as defined in 15 U.S.C. Sec. 1692a, if the consumer is  
5 a victim of identity theft, as defined in Section 1798.2, and with  
6 respect to that debt, the creditor has received notice pursuant to  
7 subdivision (k) of Section 1785.16.

8 (b) Subdivision (a) does not apply to a creditor's sale of a debt  
9 to a subsidiary or affiliate of the creditor, if, with respect to that  
10 debt, the subsidiary or affiliate does not take any action to collect  
11 the debt.

12 (c) For the purposes of this section, the requirement in 15  
13 U.S.C. Sec. 1692a, that a person must use an instrumentality of  
14 interstate commerce or the mails in the collection of any debt to be  
15 considered a debt collector, does not apply.



1 SEC. 2. Section 1785.20.3 of the Civil Code is amended to  
2 read:

3 1785.20.3. (a) Any person who uses a consumer credit report  
4 in connection with the approval of credit based on an application  
5 for an extension of credit, and who discovers that the address on  
6 the credit application does not match, within a reasonable degree  
7 of certainty, the address or addresses listed, if any, on the consumer  
8 credit report, shall take reasonable steps to verify the accuracy of  
9 the address provided on the application to confirm that the  
10 extension of credit is not the result of identity theft, as defined in  
11 Section 1798.92.

12 (b) Any person who uses a consumer credit report in  
13 connection with the approval of credit based on an application for  
14 an extension of credit, and who has received notification pursuant  
15 to subdivision (k) of Section 1785.16 that the applicant has been  
16 a victim of identity theft, as defined in Section 1798.92, may not  
17 lend money or extend credit without taking reasonable steps to  
18 verify the consumer's identity and confirm that the application for  
19 an extension of credit is not the result of identity theft.

20 (c) Any consumer who suffers damages as a result of a violation  
21 of this section by any person may bring an action in a court of  
22 appropriate jurisdiction against that person to recover actual  
23 damages, court costs, attorney's fees, and punitive damages of not  
24 more than thirty thousand dollars (\$30,000) for each violation, as  
25 the court deems proper.

26 (d) As used in this section, "identity theft" has the meaning  
27 given in subdivision (b) of Section 1798.92.

28 (e) For the purposes of this section, "extension of credit" does  
29 not include an increase in an existing open-end credit plan, as  
30 defined in Regulation Z of the Federal Reserve System (12 C.F.R.  
31 226.2), or any change to or review of an existing credit account.

32 (f) If a consumer provides initial written notice to a creditor that  
33 he or she is a victim of identity theft, as defined in subdivision (d)  
34 of Section 1798.92, the creditor shall provide written notice to the  
35 consumer of his or her rights under subdivision (k) of Section  
36 1785.16.

37 (g) The provisions of subdivisions (k) and (l) of Section  
38 1785.16 do not apply to a consumer credit reporting agency that  
39 acts only as a reseller of credit information by assembling and  
40 merging information contained in the database of another

1 consumer credit reporting agency or the databases of multiple  
2 consumer credit reporting agencies, and does not maintain a  
3 permanent database of credit information from which new credit  
4 reports are produced.

5 (h) This section does not apply ~~to~~ *if one of the addresses at issue*  
6 *is* a United States Army or Air Force post office address or a United  
7 States Fleet post office address.

8 SEC. 3. Section 1786.16 of the Civil Code is amended to read:

9 1786.16. (a) Any person described in subdivision (d) of  
10 Section 1786.12 shall not procure or cause to be prepared an  
11 investigative consumer report unless the following applicable  
12 conditions are met:

13 (1) If an investigative consumer report is sought in connection  
14 with the underwriting of insurance, it shall be clearly and  
15 accurately disclosed in writing at the time the application form,  
16 medical form, binder, or similar document is signed by the  
17 consumer that an investigative consumer report regarding the  
18 consumer's character, general reputation, personal characteristics,  
19 and mode of living may be made. If no signed application form,  
20 medical form, binder, or similar document is involved in the  
21 underwriting transaction, the disclosure shall be made to the  
22 consumer in writing and mailed or otherwise delivered to the  
23 consumer not later than three days after the report was first  
24 requested. The disclosure shall include the name and address of  
25 any investigative consumer reporting agency conducting an  
26 investigation, plus the nature and scope of the investigation  
27 requested, and a summary of the provisions of Section 1786.22.

28 (2) If, at any time, an investigative consumer report is sought  
29 for employment purposes other than suspicion of wrongdoing or  
30 misconduct by the subject of the investigation, the person  
31 ~~procuring or causing the report to be made shall, prior to~~  
32 ~~requesting the report or not later than three days after the date on~~  
33 ~~which the report was first requested, notify the consumer in~~  
34 ~~writing that an investigative consumer report regarding the~~  
35 ~~consumer's character, general reputation, personal characteristics,~~  
36 ~~and mode of living may be made. This notification shall include~~  
37 ~~the name and address of the investigative consumer reporting~~  
38 ~~agency conducting the investigation, the nature and scope of the~~  
39 ~~investigation requested, and a summary of the provisions of~~  
40 ~~Section 1786.22. The person requesting~~ seeking the investigative

1 consumer report may ~~not~~ procure the report, or cause the report to  
2 be made, ~~with respect to any consumer, unless~~ *only if all of the*  
3 *following apply:*

4 (A) The person procuring or causing the report to be made has  
5 a permissible purpose, as defined in Section 1786.12.

6 (B) The person procuring or causing the report to be made  
7 provides a clear and conspicuous disclosure in writing to the  
8 consumer at any time before the report is procured or caused to be  
9 made, ~~or not later than three days after the date on which the report~~  
10 ~~was first requested~~, in a document that consists solely of the  
11 disclosure, that:

12 (i) An investigative consumer report may be obtained.

13 (ii) The permissible purpose of the report is identified.

14 (iii) The disclosure may include information on the consumer's  
15 character, general reputation, personal characteristics, and mode  
16 of living.

17 (iv) Identifies the name, address, and telephone number of the  
18 investigative consumer reporting agency conducting the  
19 investigation.

20 (v) Notifies the consumer in writing of the nature and scope of  
21 the investigation requested, including a summary of the provisions  
22 of Section 1786.22.

23 (C) The consumer has authorized in writing the procurement of  
24 the report ~~on the disclosure form~~.

25 (3) If an investigative consumer report is sought in connection  
26 with the hiring of a dwelling unit, as defined in subdivision (c) of  
27 Section 1940, the person procuring or causing the request to be  
28 made shall, not later than three days after the date on which the  
29 report was first requested, notify the consumer in writing that an  
30 investigative consumer report will be made regarding the  
31 consumer's character, general reputation, personal characteristics,  
32 and mode of living. The notification shall also include the name  
33 and address of the investigative consumer reporting agency that  
34 will prepare the report and a summary of the provisions of Section  
35 1786.22.

36 (4) The person procuring or causing the request to be made  
37 shall certify to the investigative consumer reporting agency that  
38 the person has made the applicable disclosures to the consumer  
39 required by this subdivision and that the person will comply with  
40 subdivision (b).



1 (5) The person procuring the report or causing it to be prepared  
2 agrees to provide a copy of the report to the subject of the  
3 investigation, as provided in subdivision (b).

4 (b) Any person described in subdivision (d) of Section 1786.12  
5 who requests an investigative consumer report, in accordance with  
6 subdivision (a) regarding that consumer, shall do the following:

7 (1) Provide the consumer a means by which the consumer may  
8 indicate on a written form, by means of a box to check, that the  
9 consumer wishes to receive a copy of any report that is prepared.  
10 If the consumer wishes to receive a copy of the report, the recipient  
11 of the report shall send a copy of the report to the consumer within  
12 three business days of the date that the report is provided to the  
13 recipient, who may contract with any other entity to send a copy  
14 to the consumer. The notice to request the report may be contained  
15 on either the disclosure form, as required by subdivision (a), or a  
16 separate consent form. The copy of the report shall contain the  
17 name, address, and telephone number of the person who issued the  
18 report and how to contact them.

19 (2) Comply with Section 1786.40, if the taking of adverse  
20 action is a consideration.

21 (c) Subdivisions (a) and (b) do not apply to an investigative  
22 consumer report procured or caused to be prepared by an  
23 employer, if the report is sought for employment purposes due to  
24 suspicion held by an employer of wrongdoing or misconduct by  
25 the subject of the investigation.

26 (d) Those persons described in subdivision (d) of Section  
27 1786.12 constitute the sole and exclusive class of persons who may  
28 cause an investigative consumer report to be prepared.

29 SEC. 4. *Section 1786.24 of the Civil Code is amended to read:*

30 1786.24. (a) If the completeness or accuracy of any item of  
31 information contained in his or her file is disputed by a consumer,  
32 and the dispute is conveyed directly to the investigative consumer  
33 reporting agency by the consumer, the investigative consumer  
34 reporting agency shall, without charge, reinvestigate and record  
35 the current status of the disputed information or delete the item  
36 from the file in accordance with subdivision (c), before the end of  
37 the 30-day period beginning on the date on which the agency  
38 receives the notice of the dispute from the consumer.

39 (b) The agency shall notify any person who provided  
40 information in dispute at the address and in the manner specified



by that person. The notice shall include all relevant information regarding the dispute that the investigative consumer reporting agency has received from the consumer. The agency shall also promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer during the reinvestigation.

(c) In conducting a reinvestigation, the investigative consumer reporting agency shall review and consider all relevant information submitted by the consumer with respect to the disputed item of information.

(d) Notwithstanding subdivision (a), an investigative consumer reporting agency may terminate a reinvestigation of information disputed by a consumer if the investigative consumer reporting agency reasonably determines that the dispute is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information. Upon making a determination that a dispute is frivolous or irrelevant, the investigative consumer reporting agency shall notify the consumer, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency. In this notification, the investigative consumer reporting agency shall state the specific reasons why it has determined that the consumer's dispute is frivolous or irrelevant and provide a description of any information required to investigate the disputed information, that may consist of a standardized form describing the general nature of the required information.

(e) If a reinvestigation is made and, after reinvestigation, the disputed item of information is found to be inaccurate, incomplete, or cannot be verified by the evidence submitted, the investigative consumer reporting agency shall promptly delete that information from the consumer's file or modify the information, as appropriate, based on the results of the reinvestigation, and shall notify the consumer that the information has been deleted or modified. The consumer reporting agency shall also notify any and all sources from which the disputed information was obtained and inform them in writing of the reasons and results of the reinvestigation, and send a copy of this notification to the consumer. *In accordance with subdivision (b) of Section 1786.10, the copy of the notification sent to the consumer need not reveal the*



1 *identity of the source of information, unless otherwise required by*  
2 *law.*

3 (f) No information may be reinserted in ~~a consumer's~~ *the file*  
4 *of a consumer* after having been deleted pursuant to this section,  
5 unless the person who furnished the information verifies that the  
6 information is complete and accurate. If any information deleted  
7 ~~from a consumer's~~ *the file of a consumer* is reinserted in the file,  
8 the investigative consumer reporting agency shall promptly notify  
9 the consumer of the reinsertion in writing or, if authorized by the  
10 consumer for that purpose, by any other means available to the  
11 agency. As part of, or in addition to, this notice, the investigative  
12 consumer reporting agency shall provide to the consumer in  
13 writing (1) a statement that the disputed information has been  
14 reinserted, (2) the name, address, and telephone number of any  
15 furnisher of information contacted or that contacted the  
16 investigative consumer reporting agency in connection with the  
17 reinsertion, and the telephone number of the furnisher, if  
18 reasonably available, and (3) a notice that the consumer has the  
19 right to a reinvestigation of the information reinserted by the  
20 investigative consumer reporting agency and to add a statement to  
21 his or her file disputing the accuracy or completeness of the  
22 information.

23 (g) An investigative consumer reporting agency shall provide  
24 notice to the consumer of the results of any reinvestigation under  
25 this section by mail or, if authorized by the consumer for that  
26 purpose, by other means available to the agency. The notice shall  
27 include (1) a statement that the reinvestigation is completed, (2) an  
28 investigative consumer report that is based on the consumer's file  
29 as that file is revised as a result of the reinvestigation, (3) a  
30 description or indication of any changes made in the investigative  
31 consumer report as a result of those revisions to the consumer's  
32 file, (4) a notice that, if requested by the consumer, a description  
33 of the procedure used to determine the accuracy and completeness  
34 of the information shall be provided to the consumer by the  
35 investigative consumer reporting agency, including the name,  
36 business address, and telephone number of any furnisher of  
37 information contacted in connection with that information, (5) a  
38 notice that the consumer has the right to add a statement to the  
39 consumer's file disputing the accuracy or completeness of the  
40 information, and (6) a notice that the consumer has the right to

1 request that the investigative consumer reporting agency furnish  
2 notifications under subdivision (k).

3 (h) The presence of information in the consumer's file that  
4 contradicts the contention of the consumer shall not, in and of  
5 itself, constitute reasonable grounds for believing the dispute is  
6 frivolous or irrelevant.

7 (i) If the investigative consumer reporting agency determines  
8 that the dispute is frivolous or irrelevant, or if the reinvestigation  
9 does not resolve the dispute, or if the information is reinserted into  
10 the ~~consumer's~~ file *of a consumer* pursuant to subdivision (f), the  
11 consumer may file a brief statement setting forth the nature of the  
12 dispute. The investigative consumer reporting agency may limit  
13 these statements to not more than 500 words if it provides the  
14 consumer with assistance in writing a clear summary of the  
15 dispute.

16 (j) ~~Whenever~~ *If* a statement of dispute is filed, the investigative  
17 consumer reporting agency shall, in any subsequent investigative  
18 consumer report containing the information in question, clearly  
19 note that the information is disputed by the consumer and shall  
20 include in the report either the ~~consumer's~~ statement *of the*  
21 *consumer* or a clear and accurate summary thereof.

22 (k) Following the deletion of information from a ~~consumer's~~  
23 *the file of a consumer* pursuant to this section, or following the  
24 filing of a dispute pursuant to subdivision (i), the investigative  
25 consumer reporting agency shall, at the request of the consumer,  
26 furnish notification that the item of information has been deleted  
27 or that the item of information is disputed. In the case of disputed  
28 information, the notification shall include the statement or  
29 summary of the dispute filed pursuant to subdivision (i). This  
30 notification shall be furnished to any person who has, within two  
31 years prior to the deletion or the filing of the dispute, received an  
32 investigative consumer report concerning the consumer for  
33 employment purposes, or who has, within one year of the deletion  
34 or the filing of the dispute, received an investigative consumer  
35 report concerning the consumer for any other purpose, if these  
36 investigative consumer reports contained the deleted or disputed  
37 information, unless the consumer specifically requests in writing,  
38 that this notification not be given to all persons or to any specified  
39 persons. The investigative consumer reporting agency shall

1 clearly and conspicuously disclose to the consumer his or her  
2 rights to make a request that this notification not be made.

3 (l) An investigative consumer reporting agency shall maintain  
4 reasonable procedures designed to prevent the reappearance in a  
5 ~~consumer's~~ *the file of a consumer* and in investigative consumer  
6 reports information that has been deleted pursuant to this section  
7 and not reinserted pursuant to subdivision (f).

8 (m) If the ~~consumer's~~ *the dispute of a consumer* is resolved by  
9 deletion of the disputed information within three business days,  
10 beginning with the day the investigative consumer reporting  
11 agency receives notice of the dispute in accordance with  
12 subdivision (a), the investigative consumer reporting agency ~~shall~~  
13 ~~be~~ *is* exempt from requirements for further action under  
14 subdivisions (g), (i), and (j), if the agency: (1) provides prompt  
15 notice of the deletion to the consumer by telephone, (2) provides  
16 written confirmation of the deletion and a copy of an investigative  
17 consumer report of the consumer that is based on the ~~consumer's~~  
18 *file of a consumer* after the deletion, and (3) includes, in the  
19 telephone notice or in a written notice that accompanies the  
20 confirmation and report, a statement of the consumer's right to  
21 request under subdivision (k) that the agency not furnish  
22 notifications under that subdivision.

23 (n) Any investigative consumer reporting agency that compiles  
24 and maintains files on consumers on a nationwide basis, as defined  
25 in the federal Fair Credit Reporting Act, as amended (15 U.S.C.  
26 Sec. 1681 et seq.), shall implement an automated system through  
27 which furnishers of information to that agency may report the  
28 results of a reinvestigation that finds incomplete or inaccurate  
29 information in a ~~consumer's~~ *the file of a consumer* to other  
30 investigative consumer reporting agencies.

31 (o) All actions to be taken by an investigative consumer  
32 reporting agency under this section are governed by the applicable  
33 time periods specified in Section 611 of the federal Fair Credit  
34 Reporting Act, as amended (15 U.S.C. Sec. 1681i).

35 SEC. 5. Section 1786.29 of the Civil Code is amended to read:  
36 1786.29. An investigative consumer reporting agency shall  
37 provide the following notices on the first page of an investigative  
38 consumer report:

39 (a) A notice in at least 12-point boldface type setting forth that  
40 the report does not guarantee the accuracy or truthfulness of the

information as to the subject of the investigation, but only that it is accurately copied from public records, and information generated as a result of identity theft, including evidence of criminal activity, may be inaccurately associated with the consumer who is the subject of the report.

(b) An investigative consumer reporting agency shall provide a consumer seeking to obtain a copy of a report or making a request to review a file, a written notice in simple, plain English and Spanish setting forth the terms and conditions of his or her right to receive all disclosures, as provided in Section 1786.26.

~~SEC. 5.~~

SEC. 6. Section 1786.40 is added to the Civil Code, to read:

1786.40. (a) Whenever insurance for personal, family, or household purposes, employment, or the hiring of a dwelling unit involving a consumer is denied, or the charge for that insurance or the hiring of a dwelling unit is increased ~~either wholly or partly because of information contained in an investigative consumer report~~, *under circumstances in which a report regarding the consumer was obtained from an investigative consumer reporting agency*, the user of the investigative consumer report shall so advise the consumer against whom the adverse action has been taken and supply the name and address of the investigative consumer reporting agency making the report.

(b) Whenever insurance for personal, family, or household purposes involving a consumer is denied or the charge for that insurance is increased, *either wholly or in part because of information bearing upon the consumer's general reputation, personal characteristics, or mode of living, that was obtained from a person other than an investigative consumer reporting agency, the consumer, or another person related to the consumer and acting on the consumer's behalf and bearing upon the consumer's general reputation, personal characteristics, or mode of living*, the user of the information shall, within a reasonable period of time, and upon the consumer's written request for the reasons for the adverse action received within 60 days after learning of the adverse action, disclose the nature and substance of the information to the consumer. The user of the information shall clearly and accurately disclose to the consumer his or her right to make this written request at the time the adverse action is communicated to the consumer.

1 ~~SEC. 6.~~

2 *SEC. 7.* Section 1786.53 of the Civil Code is amended to read:

3 1786.53. (a) Any person who collects, assembles, evaluates,  
4 compiles, reports, transmits, transfers, or communicates  
5 information on a consumer's character, general reputation,  
6 personnel characteristics, or mode of living, for employment  
7 purposes, which are matters of public record, and does not use the  
8 services of an investigative consumer reporting agency, shall  
9 provide that information to the consumer pursuant to subdivision

10 (b). For purposes of this section:

11 (1) "Adverse action," as relating to employment, means a  
12 denial of employment or any decision made for an employment  
13 purpose that adversely affects any current or prospective  
14 employee.

15 (2) The term "person" does not include an agency subject to  
16 the Information Practices Act of 1977 (Chapter 1 (commencing  
17 with Section 1798) of Title 1.8).

18 (3) "Public records" means records documenting an arrest,  
19 indictment, conviction, civil judicial action, tax lien, or  
20 outstanding judgment.

21 (b) (1) Any person described in subdivision (a), or any person  
22 who receives information pursuant to subdivision (a), shall  
23 provide a copy of the related public record to the consumer within  
24 seven days after receipt of the information, regardless of whether  
25 the information is received in a written or oral form.

26 (2) Any person shall provide on any job application form, or  
27 any other written form, a box that, if checked by the consumer,  
28 permits the consumer to waive his or her right to receive a copy of  
29 any public record obtained pursuant to this section.

30 (3) If any person obtains a public record pursuant to this section  
31 for the purpose of conducting an investigation for suspicion of  
32 wrongdoing or misconduct by the subject of the investigation, the  
33 person may withhold the information until the completion of the  
34 investigation. Upon completion, the person shall provide a copy  
35 of the public record pursuant to paragraph (1), unless the consumer  
36 waived his or her rights pursuant to paragraph (2).

37 (4) If any person takes any adverse action as a result of  
38 receiving information pursuant to subdivision (a), the person shall  
39 provide to the consumer a copy of the public record, regardless of



whether the consumer waived his or her rights pursuant to paragraph (2).

(c) Nothing in subdivision (a) or (b) requires any person to provide the same information to any consumer on more than one occasion.

~~SEC. 7.~~

SEC. 8. Section 1786.55 is added to the Civil Code, to read:

1786.55. Nothing in this chapter is intended to modify Section 1198.5 of the Labor Code or existing law concerning information obtained by an employer or employment agency without the use of the services of an investigative consumer reporting agency for employment reference checks, background investigations, credential verifications, or employee investigations, except as provided in Section 1786.53. Nothing in this chapter is intended to change or supersede existing law related to privileged attorney-client communications or attorney work product, or require the production or disclosure of that information. ~~This section does not constitute a change in, but is declaratory of, existing law relating to investigative consumer reports.~~

~~SEC. 8.~~ Section 1798.85 of the Civil Code is amended to read:

~~1798.85. (a) A person or entity, not including a state or local agency, shall not do any of the following:~~

~~(1) Publicly post or publicly display in any manner an individual's social security number. "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.~~

~~(2) Print an individual's social security number on any card required for the individual to access products or services provided by the person or entity.~~

~~(3) Require an individual to transmit his or her social security number over the Internet unless the connection is secure or the social security number is encrypted.~~

~~(4) Require an individual to use his or her social security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Web site.~~

~~(5) Print an individual's social security number on any materials that are mailed to the individual, unless state or federal law requires the social security number to be on the document to~~



1 be mailed. Notwithstanding this provision, applications and forms  
2 sent by mail may include social security numbers.

3 ~~(b) Except as provided in subdivision (c), subdivision (a)~~  
4 ~~applies only to the use of social security numbers on or after July~~  
5 ~~1, 2002, except prior to July 1, 2003, any financial institution may~~  
6 ~~print an individual's social security number on any account~~  
7 ~~statement or similar document mailed to that individual, if the~~  
8 ~~social security number is provided in connection with a transaction~~  
9 ~~governed by the rules of the National Automated Clearing House~~  
10 ~~Association, or a transaction initiated by a federal governmental~~  
11 ~~entity through an automated clearing house network.~~

12 ~~(c) Except as provided in subdivision (f), a person or entity, not~~  
13 ~~including a state or local agency, that has used, prior to July 1,~~  
14 ~~2002, an individual's social security number in a manner~~  
15 ~~inconsistent with subdivision (a), may continue using that~~  
16 ~~individual's social security number in that manner on or after July~~  
17 ~~1, 2002, if all of the following conditions are met:~~

18 ~~(1) The use of the social security number is continuous. If the~~  
19 ~~use is stopped for any reason, subdivision (a) shall apply.~~

20 ~~(2) The individual is provided an annual disclosure,~~  
21 ~~commencing in the year 2002, that informs the individual that he~~  
22 ~~or she has the right to stop the use of his or her social security~~  
23 ~~number in a manner prohibited by subdivision (a).~~

24 ~~(3) A written request by an individual to stop the use of his or~~  
25 ~~her social security number in a manner prohibited by subdivision~~  
26 ~~(a) shall be implemented within 30 days of the receipt of the~~  
27 ~~request. There shall be no fee or charge for implementing the~~  
28 ~~request.~~

29 ~~(4) A person or entity, not including a state or local agency,~~  
30 ~~shall not deny services to an individual because the individual~~  
31 ~~makes a written request pursuant to this subdivision.~~

32 ~~(d) This section does not prevent the collection, use, or release~~  
33 ~~of a social security number as required by state or federal law or~~  
34 ~~the use of a social security number for internal verification or~~  
35 ~~administrative purposes.~~

36 ~~(e) This section does not apply to documents that are recorded~~  
37 ~~or required to be open to the public pursuant to Chapter 3.5~~  
38 ~~(commencing with Section 6250), Chapter 14 (commencing with~~  
39 ~~Section 7150) or Chapter 14.5 (commencing with Section 7220)~~  
40 ~~of Division 7 of Title 1 of, or Chapter 9 (commencing with Section~~

1 54950) of Part 1 of Division 2 of Title 5 of, the Government Code.  
2 This section does not apply to records that are required by statute,  
3 case law, or California Rule of Court, to be made available to the  
4 public by entities provided for in Article VI of the California  
5 Constitution.

6 (f) (1) In the case of a health care service plan, a provider of  
7 health care, an insurer or a pharmacy benefits manager, or a  
8 contractor as defined in Section 56.05, this section shall become  
9 operative in the following manner:

10 (A) On or before January 1, 2003, the entities listed in  
11 paragraph (1) of subdivision (f) shall comply with paragraphs (1),  
12 (3), (4), and (5) of subdivision (a) as these requirements pertain to  
13 individual policyholders.

14 (B) On or before January 1, 2004, the entities listed in  
15 paragraph (1) of subdivision (f) shall comply with paragraphs (1)  
16 to (5), inclusive, of subdivision (a) as these requirements pertain  
17 to new individual policyholders and new employer groups issued  
18 on or after January 1, 2004.

19 (C) On or before July 1, 2004, the entities listed in paragraph  
20 (1) of subdivision (f) shall comply with paragraphs (1) to (5),  
21 inclusive, of subdivision (a) for all policyholders and for all  
22 enrollees of the Healthy Families and Medi-Cal programs, except  
23 that individual and employer group policyholders in existence  
24 prior to January 1, 2004, shall comply upon their renewal date, but  
25 no later than July 1, 2005.

26 (2) A health care service plan, a provider of health care, an  
27 insurer or a pharmacy benefits manager, or a contractor shall make  
28 reasonable efforts to cooperate, through systems testing and other  
29 means, to ensure that the requirements of this article are  
30 implemented on or before the dates specified in this section.

31 (3) Notwithstanding paragraph (2), the Director of the  
32 Department of Managed Health Care, pursuant to the authority  
33 granted under Section 1346 of the Health and Safety Code, or the  
34 Insurance Commissioner, pursuant to the authority granted under  
35 Section 12921 of the Insurance Code, and upon a determination of  
36 good cause, may grant extensions not to exceed six months for  
37 compliance by health care service plans and insurers with the  
38 requirements of this section when requested by the health care  
39 service plan or insurer. Any extension granted shall apply to the

1 health care service plan or insurer's affected providers, pharmacy  
2 benefits manager, and contractors.

3 ~~(g) If a federal law takes effect requiring the United States~~  
4 ~~Department of Health and Human Services to establish a national~~  
5 ~~unique patient health identifier program, a provider of health care,~~  
6 ~~a health care service plan, a licensed health care professional, or~~  
7 ~~a contractor, as those terms are defined in Section 56.05, that~~  
8 ~~complies with the federal law shall be deemed in compliance with~~  
9 ~~this section.~~ information.

10 SEC. 9. *Section 1786.60 is added to the Civil Code, to read:*  
11 *1786.60. Notwithstanding subdivision (a) of Section 1798.85,*  
12 *prior to July 1, 2003, any financial institution may print the social*  
13 *security number of an individual on any account statement or*  
14 *similar document mailed to that individual, if the social security*  
15 *number is provided in connection with a transaction governed by*  
16 *the rules of the National Automated Clearing House Association,*  
17 *or a transaction initiated by a federal governmental entity through*  
18 *an automated clearing house network.*

19 SEC. 10. The changes made by this act to subdivision (f) of  
20 Section 1785.20.3 of the Civil Code shall become operative 90  
21 days after the effective date of this act.

22 ~~SEC. 10. The changes made by this act to Sections 1785.20.3~~  
23 ~~and 1786.53 of the Civil Code, excluding the addition of~~  
24 ~~subdivision (f) to Section 1785.20.3 of the Civil Code and the~~  
25 ~~addition of Section 1786.55 to the Civil Code, are intended to~~  
26 ~~clarify the law, duties, and obligations of the users of consumer~~  
27 ~~credit reports pursuant to Chapter 354 of the Statutes of 2001.~~

28 SEC. 11. This act is an urgency statute necessary for the  
29 immediate preservation of the public peace, health, or safety  
30 within the meaning of Article IV of the Constitution and shall go  
31 into immediate effect. The facts constituting the necessity are:

32 In order to clarify confusion over the operational provisions of  
33 Chapter 354 of the Statutes of 2001, and further protect consumer  
34 interests in relation to credit information and identity theft, it is  
35 necessary that this act take immediate effect.